

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re:)	Case No. 22-10117
)	
Tracy Szczesniak,)	Judge Arthur I. Harris
)	
Debtor.)	Chapter 7 Case

TRUSTEE’S RESPONSE TO DEBTOR’S MOTION TO WAIVE
COUNSELING AND FINANCIAL MANAGEMENT COURSES

David O. Simon, the appointed Trustee in this case, hereby offers the following response to the Debtor’s Motion to Waive Counseling and Financial Management Courses:

1. This case does not involve the “exigent circumstances” exception found in §109(h)(3) of the Bankruptcy Code but, rather, the exception for incapacity or disability found in §109(h)(4) of the Bankruptcy Code.

2. The Debtor’s basis for seeking a waiver of the counseling course requirements is her assertion that she has brain injuries dating back to 2000, which have left her “permanently unable to follow/understand directions and carry out instructional/educational tasks.”

3. The Debtor’s request for a waiver is perplexing, at best. How is it that she is not competent to complete the required counseling courses but, at the same time, she is competent to sign her bankruptcy petition and schedules under penalty of perjury?

4. Since the Debtor’s injury in 2000, she was been employed by Bearing Distributors, Inc. for several years until 2019, and has been a Plaintiff in an undisclosed discrimination and sexual harassment lawsuit filed in 2020 and resolved in 2021. Apparently, the Debtor had the competence to participate in those proceedings.

5. The bottom line, in the Trustee's opinion, is that if the Debtor is competent to sign her petition and schedules, she is competent to obtain the credit counseling and financial management courses. Otherwise, perhaps the Debtor should be required to proceed only with the assistance of a personal representative as provided in Rule 1004.1 of the Bankruptcy Rules. *See, e.g., In re Drenth*, 2015 Bankr. LEXIS 3160 (Bankr. W.D. MI 2015).

WHEREFORE, the Trustee respectfully suggests that the Debtor's Motion to Waive Counseling and Financial Management Courses be denied.

Respectfully submitted,

/s/ David O. Simon

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing Response was electronically served by the Court's electronic noticing system upon Mark F. Graziani, Esq., attorney for Debtor, at mark_graziani@yahoo.com this 21st day of January, 2022.

/s/ David O. Simon

David O. Simon